

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TREVOR ALLAN RAY ROE,
SHAUNUSTY RAVIN LYNN ROE, JOSHUA
MICHAEL LEE ROE, and KYLE WILLIAM LEE
ROE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LYNN ANN NELSON,

Respondent-Appellant,

and

TODD MICHAEL ROE,

Respondent.

In the Matter of DUSTIN LEE NELSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LYNN A. NELSON,

Respondent-Appellant,

and

TODD MICHAEL ROE,

Respondent.

UNPUBLISHED

May 15, 2007

No. 274391

Isabella Circuit Court

Family Division

LC No. 05-000093-NA

No. 274464

Isabella Circuit Court

Family Division

LC No. 05-000094-NA

In the Matter of DYLAN REX NELSON, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

LYNN A. NELSON,

Respondent-Appellant.

No. 274544
Isabella Circuit Court
Family Division
LC No. 05-000095-NA

In the Matter of TREVOR ALLAN RAY ROE,
SHAUNUSTY RAVIN LYNN ROE, JOSHUA
MICHAEL LEE ROE and KYLE WILLIAM LEE
ROE, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

TODD MICHAEL ROE,

Respondent-Appellant,

and

LYNN ANN NELSON,

Respondent.

No. 274977
Isabella Circuit Court
Family Division
LC No. 05-000093-NA

Before: Markey, P.J., and Sawyer and Bandstra, JJ.

PER CURIAM.

In these consolidated appeals, respondents Lynn Nelson and Todd Roe appeal as of right from the trial court's orders terminating their parental rights to the minor children. The court terminated the parental rights of both respondents under MCL 712A.19b(3)(c)(i) and (g), and additionally terminated respondent Roe's parental rights under MCL 712A.19(b)(3)(h) and (k)(ii). We affirm.

The petitioner must establish a statutory ground for termination under MCL 712A.19b(3) by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once the court finds that a statutory ground for termination has been established, termination is required unless the court finds that termination is clearly not in the child's best interests. *Id.* at 364-365; MCL 712A.19b(5). This Court reviews decisions terminating parental rights for clear error. *In re Trejo, supra* at 356. A trial court's decision to terminate parental rights is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with the definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

The trial court terminated the parental rights of both respondents under §§ 19b(3)(c)(i) and (g), and additionally terminated respondent Roe's parental rights under §§ 19(b)(3)(h) and (k)(ii). These subsections permit termination under the following circumstances:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

* * *

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence for both respondents.

The evidence showed that respondent Nelson was unable to adequately and properly supervise, discipline, and protect her children. A psychological evaluation revealed that she was emotionally immature, functioned more as an adolescent than an adult, and did not understand the scope of her responsibilities. Her emotional immaturity hindered her ability to identify with the needs of her children, hindering her ability to estimate the amount of time, attention, supervision, and parental involvement that was necessary for appropriate parenting. Further, she was at high risk for failing to identify risks to her children, and her personality traits were ingrained and unlikely to change, even with counseling. The psychologist who administered respondent Nelson's psychological evaluations explained that there were no changes in these underlying dynamics in a recent evaluation, that the risk to the children was the same, that respondent Nelson's prognosis for improvement was poor, and that it was unlikely that respondent Nelson's problems could be rectified in less than a year. Other evidence showed that respondent Nelson never committed herself to counseling, which could have conceivably helped her in these areas. The evidence also established that the children were in a state of emotional turmoil and lacked any secure attachment because of the unstructured environment in which they existed before they were removed from respondent Nelson's care. The trial court did not clearly err in finding that termination of respondent Nelson's parental rights was warranted under §§ 19b(3)(c)(i) and (g).

With respect to respondent Roe, the evidence indicated that he would require intensive, long-term intervention and support in order to properly care for the children. Further, he was convicted of criminal sexual conduct for sexually abusing respondent Nelson's oldest daughter and would be imprisoned until at least November 2008. The trial court did not clearly err in finding that termination of respondent Roe's parental rights was warranted under §§ 19b(3)(c)(i), (g), (h), and (k)(ii).

Further, considering the evidence in the entire record, the trial court did not clearly err in finding that termination of both respondents' parental rights was not clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357.

Respondent Nelson also argues that reversal is required because she was represented by two different attorneys at the termination trial. The legal basis for respondent Nelson's argument is unclear. To the extent that she challenges the effectiveness of the representation she received at trial, her failure to raise this issue in a motion for a new trial or request for an evidentiary hearing limits this Court's review to mistakes apparent from the record. *People v Williams*, 223 Mich App 409, 414; 566 NW2d 649 (1997). To the extent that she raises a distinct procedural claim, her failure to object below precludes appellate relief absent a plain error affecting her substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

In either case, respondent Nelson cites no authority suggesting that the dual representation was improper, and she offers no explanation of how the dual representation affected the quality of her representation or otherwise prejudiced her substantial rights. As our Supreme Court has explained:

[I]t is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his

arguments, and then search for authority either to sustain or reject his position.
[*Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).]

Accordingly, we reject this claim of error.

Affirmed.

/s/ Jane E. Markey
/s/ David H. Sawyer
/s/ Richard A. Bandstra